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To: Lester Snow, Sharon Gross, CALFED Program Staff
From: Scott McCreary, CONCUR
cc: Eugenia Laychak, CCPDR

**Re: Some Key Outcomes from the January 30 BDAC Meeting
and Implications for Future BDAC Meetings**

I. Introduction This memorandum presents CONCUR's initial summary and analysis of some key outcomes of the January 30th BDAC meeting. These ideas can be discussed and developed further in our BDAC Planning Meeting on Wednesday. Section II of the memorandum presents some overall comments, Section III reviews the BDAC response to questions posed, and Section IV outlines some follow up needs for future meetings.

II. Overview of the Meeting The agenda included an initial presentation on Component Integration and the Programmatic Level of Detail, a Status Report on the January, 1997 flood, an update on the Water Quality Program, and the Water Use Efficiency program description. Also on the agenda was an update on storage and conveyance that was intended as a brief status report.

As expected, the appearance of Director Kennedy and the Colonel attracted a lot of attention and interest from BDAC. The kick off of this item deflected the presentation on the programmatic level of detail until after lunch.

As we set up the agenda, BDAC deliberation was contemplated for two items (water quality and water use efficiency), and there was in fact wide ranging discussion on both topics. Although some members left at lunchtime, the full BDAC stayed engaged throughout the day to a much a greater extent that at past meetings. The long discussions on the January flood and on Water Use Efficiency displaced two substantive items from the agenda: the Update on the Ecosystem Roundtable Activities and the Implementation Plan.

The item on Water Use Efficiency surfaced the underlying differences among BDAC members as starkly as any discussion, and also raised the question in a more serious way as to what extent BDAC can be a forum for conflict resolution and consensus building.

III. Review of BDAC Deliberations on Questions BDAC was asked to deliberate on two sets of questions, one on water quality, and a second on water use efficiency. Here is an initial recap of those comments:

Water Quality

- 1) "Is appropriate for CALFED to assume an overall coordination and integration role in watershed protection". There was broad agreement on this overarching question. BDAC likes CALFED in a coordination and integration role; they have more trouble with leadership (see below.)
- 2) Should CALFED should work with local agencies to assist in formation of alliances and cooperative projects to improve water quality on a larger scale that might be possible with local agencies? There was also general agreement, but most BDAC skipped over this question to weigh in on question 3.
- 3) Should CALFED "assume a leadership role in coordinating water quality assessment activities through the watersheds tributary to the Bay-Delta to assure uniform data collection protocols, uniform application of quality control, standardized analyses and compatible database structures".

There was considerable discussion on question 3. One theme was that the goals (uniform data collection, compatible data bases) are very appropriate as they would avoid duplication of effort and lead to better informed decisions. However, several BDAC members openly questioned the appropriateness of CALFED exerting leadership. Several members pointed out that both EPA and the State Boards, together with the Regional Boards had important regulatory responsibilities. The Regional Boards are actively engaged in promoting watershed management. Still another point is that some of the state level initiatives apply to geographic areas outside both the problem area and the solution area for the CALFED program.

The discussion on this last question was useful in providing guidance to CALFED out the need for policy integration between CALFED and the State Board/Regional Boards. It also may help leverage some valuable help from Mike Mantell on this point.

Water Use Efficiency Two questions were posed:

- 1) The proposed approach to agricultural water use efficiency provides a two year opportunity for agricultural water users to demonstrate the sufficiency of a voluntary process. The approach includes a "trigger" leading to planning and implementation requirements, patterned after existing state law that applies to urban agencies, in the event that the voluntary process proves inadequate. Is this an appropriate way for CALFED to provide assurance of agricultural water use efficiency.

2. The proposed approach of urban water conservation includes an assurance mechanism intended to increase the implementation of cost-effective measures. There is an independent stakeholder effort to develop recommendations on mechanisms to assure compliance. CALFED can define the criteria of an adequate assurance mechanism, allow an opportunity for ongoing stakeholder efforts to yield a proposal, and commit to a including an adequate stakeholder proposal or alternative assurance mechanism in a final package of program assurances. **Is this an appropriate way for CALFED to proceed with development of urban water use efficiency assurances?**

The response to the questions on Water Use Efficiency was more complicated; BDAC members didn't address the questions quite as cleanly as they did for water quality. One strand of the BDAC discussion seemed to be that the presentation didn't fully capture the issues on which the Work Group had agreed, nor did it clearly frame the issues where active disagreement remains, and for that reason the questions weren't set up quite right. There seemed to be a desire on the part of the full BDAC to better understand where the areas of agreement and disagreement lay coming out of the Work Group before going forward with full Council deliberation.

A second theme was that there was prior question--even before asking about the type of assurance--as to whether new assurances are needed at all. A related theme was that while assurances have a regulatory flavor, there are other policy mechanisms--like pricing and disclosure of information--that are less command-and-control in nature. There was broad, overt disagreement on whether the approach for agricultural water conservation was the right course, but there was also clearly no BDAC consensus for an alternative policy approach. The overall guidance from BDAC was for staff to review and synthesize the comments received (both in writing and at the meeting), and come back with a revised program description.

IV. Specific Outcomes of BDAC Meeting That Require Follow Up

Looking across the full January BDAC meeting, several items appear to require some follow up attention.

Assess the Implications of the New Year's Flood on CALFED Program: BDAC members were very interested in the detailed summary of the response to the New Year's Flood presented by David Kennedy and the Colonel.

David Kennedy reported that Governor Wilson had convened an "Action Team" to respond to the flood, and Mike Mantell reported that the Governor had inserted language in the group's charter to ensure that their work is consistent with CALFED's. An initial report is to be released within 30 days of the formation of the Action team; another within 4 months. It may be useful to see exactly how these milestones dovetail with those portrayed on the current Program Schedule Overview.

Tom Graff put on the table the idea of the an independent review along the lines of the group that produced the Galloway report. His proposal drew (apparently orchestrated) support from the environmental community, but no specific response from DWR and the Corps.

Clarify the Opportunities for Public Comment Embedded in the Phase II Timeline: In response to Lester's opening presentation on the steps in Phase several BDAC members reacted with concern about the many steps and the aggressive pace of the schedule. Mary Selkirk found herself "a little breathless" about reviewing the schedule; Ann Notthoff queried whether the Program has the technical capability to absorb comments and feed them back in a timely way. Sunne reminded BDAC members that the ROD is still 18 months out, and there are actually many, many opportunities for public comment.

In response to some of these concerns, Lester agreed that the Program should provide information at the next meeting to show more clearly the opportunities for public review and comment. One way to respond could be to add a row to the graphic "CALFED Bay-Delta Program Schedule" called "Opportunities for Public Review and Comment".

The second issue--that of the Program's ability to absorb and respond to comments--is an ongoing concern. The best way to deal with that concern seems to be to keep working hard to respond to comments, and be a bit more explicit about how comments have been incorporated. The periodic "response to comments" documents might need to be issued at closer intervals to keep up with the pace of Program development.

Determine How Peer Review (or Joint Fact-Finding) Will Be Built Into the CALFED Program: Several BDAC members expressed the desire to see CALFED Program staff build the best available expertise into the conceptualization and design of the preferred alternative, particularly with regard to the Ecosystem Restoration common program. Lester agreed with the BDAC comment that some kind of expert review be built into the program. One aspect of this idea is to bring to bear the best available expertise (including experts not now part of the CALFED team) to review the draft program and offer comments and insights. A second part of this idea could be attempt to ascertain the level of technical agreement as the foundation for policy recommendations. The details of this approach still need to be worked out.

Summarize Kinds of Technical Information BDAC Will Get to Structure Their Advice on Key Issues: Tom Maddock asked whether, as BDAC prepares to render advice on a series of key program elements, the Program staff could let them know what kinds of information would be gathered and presented. Lester agreed to "provide something at the next meeting distilled to some key categories" in order to make rational recommendations. This document presumably would be based in part on the list of impact issues and existing

conditions that was transmitted to BDAC last fall, and would be transmitted as part of the next BDAC packet.

Confirm the Respective Roles of CALFED, the State Board and the Regional Boards in Coordinating Watershed Management: The questions posed at the end of Rick Woodard's presentation on the Water Quality Program provoked a lively discuss about whether CALFED should play a "coordinating", "leadership" or "supporting" role in watershed management. Several BDAC members agreed while the CALFED Program should certainly play a coordination, they were not ready to endorse leadership as the right position. Mike Mantell offered to facilitate discussions among the agencies on this point.

Continue Developing the Definition of Watershed Management: A related need, well expressed by Lester, is to articulate a solid working definition of "watershed management" as it applies to the entire CALFED Program.

Revise the Water Use Efficiency Program Description: The outcome of the presentation of the Water Use Efficiency was a decision to restructure the write up of the program.

Assess Need to Promote or Convene Caucuses in the Agricultural Community: Of course, agriculture is far from monolithic, and probably several years behind the curve of CUWA and the California Urban Water Conservation Council in responding efficiently to emerging water policy initiatives. Right now, agriculture is also very focused on CVPIA reform issues. But CALFED needs a serious discussion about water use efficiency from the ag side. Should CALFED staff take additional steps to support the convening of a caucus on the agricultural side?

Continue Developing New Graphics Approaches: The computer-based projection system Rick Woodard used in his presentation seemed to work very well. Did any staff hear a specific response from BDAC members to this new technology? As the pace of meetings and public presentations picks up later in Phase II, this approach could save a lot of time and provide valuable flexibility.

Another graphic tool that seemed to work well was Rick Breitenbach's example of North of Delta storage to highlight the differences between programmatic and project level analysis. This theme could might be expanded to other subject areas, and could be very timely in upcoming workshops on specific components.

Clarify Procedures for Dispute Resolution at BDAC: BDAC has previously been presented with groundrules that establish the goal of reaching consensus. BDAC members have also expressed the desire that meeting summaries be explicit about disagreements, or try to "map the range of views" that BDAC. Roger Patterson mentioned that seeing where the outlying views is very helpful to the agencies.

When we met with Mike and Sunne on January 15, Mike had suggested "disagreement ought not to fester at the work group level", and the that perhaps the full BDAC was the right forum to resolve disagreements at the work group. But at the full BDAC meeting on January 30th, it was apparent that the conditions were not really in place to foster actual negotiation between the parties, and then both chairs left the meeting before the discussion on water use efficiency ended.

Strengthen the Preparation and "Set Up" of Questions for BDAC Deliberation:

Significant progress has been made on the issues framed for BDAC deliberation, but there is still some room for improvement. This time around, we get specific questions into the packet, and an effort was made to identify "discussants"--BDAC members who were prepared to give a heads up to discussants. (I am not sure exactly how many BDAC members were actually reached, nor whether the Chair and Co-Chair actually knew who was prepared to speak up). Questions were framed on overheads, and the overheads were left up while BDAC tried to wrestle with them. As noted above, the questions themselves drew varying responses: some sharply focused, others about the larger Program. On some issues, Mike did sum up the "sense of the house"; on others the opinions were so divergent that there was no single message to sum up.

One message coming out the Water Use Efficiency discussion is that part of setting up questions for deliberation is to "map the leading edge" of where the Work Groups lead off, to give the full BDAC a bit more context. The key items from the Water Use Efficiency Work might be synthesized like this:

Status of Issues Discussed by the Water Use Efficiency Work Group

Areas of Agreement	Remaining Areas of Disagreement or Uncertainty
•	•
•	•

CALFED Program staff might give some thought the kinds of advice they seek in posing questions. Here are some results that can move the Program forward:

- confirm the agreements on advice made at the Work Group level;
- help to point out or clarify newly emerging policy issues;
- help staff understand where areas of residual disagreement lie in the stakeholder community
- pinpoint areas where BDAC needs more information;
- generate useful guidance to staff in revising and integrating program components;
- provide BDAC with an opportunity to express general concurrence with the approach taken by staff.